

1 SENATE BILL 575

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

4 Cynthia Nava

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10 AN ACT

11 RELATING TO INSTRUCTIONAL MATERIALS; TRANSFERRING THE
12 RESPONSIBILITY FOR INSTRUCTIONAL MATERIALS FOR ADULT BASIC
13 EDUCATION FROM THE PUBLIC EDUCATION DEPARTMENT TO THE HIGHER
14 EDUCATION DEPARTMENT; ALLOWING PRIVATE SCHOOLS TO PURCHASE OFF
15 THE MULTIPLE LIST; LIMITING PRIVATE SCHOOL PURCHASES TO IN-
16 STATE DEPOSITORIES; CLARIFYING PROVISIONS OF THE INSTRUCTIONAL
17 MATERIAL FUND; RECONCILING MULTIPLE AMENDMENTS TO THE SAME
18 SECTION OF LAW IN LAWS 2007.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 Section 1. Section 21-1-27.6 NMSA 1978 (being Laws 1995,
22 Chapter 56, Section 2, as amended) is amended to read:

23 "21-1-27.6. ADULT BASIC EDUCATION--DISTRIBUTION OF
24 MONEY--OBJECTIVE FORMULA--~~[COMMISSION ON]~~ HIGHER EDUCATION
25 DEPARTMENT--ADOPTION OF FORMULA.--The ~~[commission on]~~ higher

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1 education department in consultation with representatives of
2 adult basic education administrative sites shall create an
3 equitable formula for the distribution of money in the adult
4 basic education fund, including funding for instructional
5 materials for adult basic education students. In establishing
6 an equitable formula, the [~~commission~~] department shall
7 consider the types of programs conducted, the cost of service
8 delivery, the types and cost of instructional materials and the
9 socioeconomic profiles of the adult receiving services. The
10 [~~commission~~] department shall review the formula and any
11 proposed changes with the adult basic education administrative
12 sites prior to adoption or amendment."

13 Section 2. A new section of Chapter 21, Article 1 NMSA
14 1978 is enacted to read:

15 "[NEW MATERIAL] ADULT BASIC EDUCATION--INSTRUCTIONAL
16 MATERIALS.--The higher education department shall promulgate
17 rules on the purchase and provision of instructional materials
18 for the free use of adult basic education students. The rules
19 shall include:

20 A. the responsibilities of adult basic education
21 administrative units as agents for the benefit of students
22 entitled to the free use of instructional materials; and

23 B. inventory and accounting procedures to be
24 followed by the adult basic education administrative units."

25 Section 3. Section 22-15-4 NMSA 1978 (being Laws 1967,
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1 Chapter 16, Section 208, as amended) is amended to read:

2 "22-15-4. BUREAU--DUTIES.--Subject to the policies and
3 [~~regulations~~] rules of the department, the bureau shall:

4 A. administer the provisions of the Instructional
5 Material Law;

6 B. enforce rules for the handling, safekeeping and
7 distribution of instructional material and instructional
8 material funds and for inventory and accounting procedures to
9 be followed by school districts, state institutions and private
10 schools [~~and adult basic education centers~~] pursuant to the
11 Instructional Material Law;

12 C. withdraw or withhold the privilege of
13 participating in the free use of instructional material in case
14 of any violation of or noncompliance with the provisions of the
15 Instructional Material Law or any rules adopted pursuant to
16 that law;

17 D. enforce rules relating to the use and operation
18 of instructional material depositories in the instructional
19 material distribution process; and

20 E. enforce rules that require local school boards
21 to implement a process that ensures that parents and other
22 community members are involved in the instructional material
23 review process."

24 Section 4. Section 22-15-5 NMSA 1978 (being Laws 1967,
25 Chapter 16, Section 209, as amended) is amended to read:

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1 "22-15-5. INSTRUCTIONAL MATERIAL FUND.--

2 A. The state treasurer shall establish a
3 nonreverting fund to be known as the "instructional material
4 fund". The fund consists of appropriations, gifts, grants,
5 donations and any other money credited to the fund. The fund
6 shall be administered by the department, and money in the fund
7 is appropriated to the department to carry out the provisions
8 of the Instructional Material Law.

9 B. The instructional material fund shall be used
10 for the purpose of paying for the cost of purchasing
11 instructional material pursuant to the Instructional Material
12 Law. Transportation charges for the delivery of instructional
13 material to a school district, a state institution or a private
14 school as agent [~~or an adult basic education center~~] and
15 emergency expenses incurred in providing instructional material
16 to students may be included as a cost of purchasing
17 instructional material. Charges for rebinding of used
18 instructional [~~materials~~] material that [~~appear~~] appears on the
19 multiple list pursuant to Section 22-15-8 NMSA 1978 may also be
20 included as a cost of purchasing instructional material."

21 Section 5. Section 22-15-7 NMSA 1978 (being Laws 1967,
22 Chapter 16, Section 211, as amended) is amended to read:

23 "22-15-7. STUDENTS ELIGIBLE--DISTRIBUTION.--

24 A. Any qualified student or person eligible to
25 become a qualified student attending a public school, a state

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1 institution or a private school approved by the [~~state board~~]
2 department in any grade from first through the twelfth grade of
3 instruction is entitled to the free use of instructional
4 material. Any student enrolled in an early childhood education
5 program as defined by Section 22-13-3 NMSA 1978 or person
6 eligible to become an early childhood education student as
7 defined by that section attending a private early childhood
8 education program approved by the [~~state board~~] department is
9 entitled to the free use of instructional material. [~~Any~~
10 ~~student in an adult basic education program approved by the~~
11 ~~commission on higher education is entitled to the free use of~~
12 ~~instructional material from the instructional material bureau~~
13 ~~of the department of education.~~]

14 B. Instructional material shall be distributed to
15 school districts, state institutions and private schools [~~and~~
16 ~~adult basic education centers~~] as agents for the benefit of
17 students entitled to the free use of the instructional
18 material.

19 C. Any school district, state institution or
20 private school as agent [~~or adult basic education center~~]
21 receiving instructional material pursuant to the Instructional
22 Material Law is responsible for distribution of the
23 instructional material for use by eligible students and for the
24 safekeeping of the instructional material."

25 Section 6. Section 22-15-8 NMSA 1978 (being Laws 1967,

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1 Chapter 16, Section 212, as amended) is amended to read:

2 "22-15-8. MULTIPLE LIST--SELECTION--REVIEW PROCESS.--

3 A. The department shall adopt a multiple list to be
4 made available to students pursuant to the Instructional
5 Material Law. At least ten percent of instructional material
6 on the multiple list concerning language arts and social
7 studies shall contain material that is relevant to the
8 cultures, languages, history and experiences of multi-ethnic
9 students. The department shall ensure that parents and other
10 community members are involved in the adoption process at the
11 state level.

12 B. Pursuant to the provisions of the Instructional
13 Material Law, each school district, state institution or
14 private school as agent [~~or adult basic education center~~] may
15 select instructional material for the use of its students from
16 the multiple list adopted by the department. Local school
17 boards shall give written notice to parents and other community
18 members and shall invite parental involvement in the adoption
19 process at the district level. Local school boards shall also
20 give public notice, which notice may include publication in a
21 newspaper of general circulation in the school district.

22 C. The department shall establish by rule an
23 instructional material review process for the adoption of
24 instructional material on the multiple list. The process shall
25 include:

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1 (1) a summer review institute at which basal
2 materials in the content area under adoption will be
3 facilitated by content and performance experts in the content
4 area and reviewed by reviewers;

5 (2) that level two and level three-A teachers
6 are reviewers of record; provided that level one teachers,
7 college students completing teacher preparation programs,
8 parents and community leaders will be recruited and partnered
9 with the reviewers of record;

10 (3) that reviewed materials shall be scored
11 and ranked primarily against how well they align with state
12 academic content and performance standards, but research-based
13 effectiveness may also be considered; and

14 (4) the adoption of supplementary materials
15 that are not reviewed.

16 D. Participants in the summer review institute
17 shall receive a stipend commensurate with the level of
18 responsibility and participation as determined by department
19 rule.

20 E. The department shall charge a processing fee to
21 vendors of instructional materials not to exceed the retail
22 value of the instructional material submitted for adoption."

23 Section 7. Section 22-15-9 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 213, as amended by Laws 2007, Chapter 284,
25 Section 1 and by Laws 2007, Chapter 285, Section 2) is amended

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1 to read:

2 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL
3 MATERIAL.--

4 A. On or before April 1 of each year, the
5 department shall allocate to each school district, state
6 institution or private school as agent not less than ninety
7 percent of its estimated entitlement as determined from the
8 estimated forty-day membership for the next school year. A
9 school district's, state institution's or private school's
10 entitlement is that portion of the total amount of the annual
11 appropriation less a deduction for a reasonable reserve for
12 emergency expenses that its forty-day membership bears to the
13 forty-day membership of the entire state. For the purpose of
14 this allocation, additional pupils shall be counted as six
15 pupils. [~~The allocation for adult basic education shall be~~
16 ~~based on a full-time equivalency obtained by multiplying the~~
17 ~~total previous year's enrollment by .25.~~]

18 B. On or before January 15 of each year, the
19 department shall recompute each entitlement using the forty-day
20 membership for that year, except for adult basic education, and
21 shall allocate the balance of the annual appropriation
22 adjusting for any over- or under-estimation made in the first
23 allocation.

24 C. An amount not to exceed fifty percent of the
25 allocations attributed to each school district or state

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1 institution [~~or adult basic education center~~] may be used for
2 instructional material not included on the multiple list
3 provided for in Section 22-15-8 NMSA 1978, and up to
4 twenty-five percent of this amount may be used for other
5 classroom materials. The local superintendent may apply to the
6 department for a waiver of the use of funds allocated for the
7 purchase of instructional material either included or not
8 included on the multiple list. If the waiver is granted, the
9 school district shall not be required to submit a budget
10 adjustment request to the department. [~~Adult basic education~~
11 ~~centers~~] Private schools may expend up to [~~one hundred~~] fifty
12 percent of their instructional material funds for items that
13 are not on the multiple list; provided that no funds shall be
14 expended for religious, sectarian or nonsecular materials.

15 D. The department shall establish procedures for
16 the distribution of funds directly to school districts and
17 state institutions [~~and adult basic education centers~~]. Prior
18 to the final distribution of funds to any school district or
19 charter school, the department shall verify that the local
20 school board or governing body has adopted a policy that
21 requires that every student have a textbook for each class that
22 conforms to curriculum requirements and that allows students to
23 take those textbooks home.

24 E. The department shall provide payment to [~~a~~
25 ~~publisher or~~] an in-state depository on behalf of a private

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1 school for instructional material included on the multiple list
2 provided for in Section 22-15-8 NMSA 1978.

3 F. A school district or state institution [~~or~~
4 ~~adult basic education center~~] that has funds remaining for
5 the purchase of instructional material at the end of the
6 fiscal year shall retain those funds for expenditure in
7 subsequent years. Any balance remaining in an instructional
8 material account of a private school at the end of the fiscal
9 year shall remain available for reimbursement by the
10 department for instructional material purchases in subsequent
11 years."

12 Section 8. Section 22-15-10 NMSA 1978 (being Laws 1967,
13 Chapter 16, Section 214, as amended) is amended to read:

14 "22-15-10. SALE OR LOSS OR RETURN OF INSTRUCTIONAL
15 MATERIAL.--

16 A. With the approval of the chief, instructional
17 material acquired by a school district, state institution or
18 private school [~~or adult basic education center~~] pursuant to
19 the Instructional Material Law may be sold at a price
20 determined by officials of the school district, state
21 institution or private school [~~or adult basic education~~
22 ~~center~~]. The selling price shall not exceed the cost of the
23 instructional material to the state.

24 B. A school district, state institution or
25 private school [~~or adult basic education center~~] may hold the

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1 parent [~~guardian~~] or student responsible for the loss, damage
2 or destruction of instructional material while the
3 instructional material is in the possession of the student.

4 A school district may withhold the grades, diploma and
5 transcripts of the student responsible for damage or loss of
6 instructional material until the parent [~~guardian~~] or student
7 has paid for the damage or loss. When a parent [~~guardian~~] or
8 student is unable to pay for damage or loss, the school
9 district shall work with the parent [~~guardian~~] or student to
10 develop an alternative program in lieu of payment. Where a
11 parent [~~or guardian~~] is determined to be indigent according
12 to guidelines established by the [~~state board~~] department,
13 the [~~local~~] school district shall bear the cost.

14 C. A school district or state institution [~~or~~
15 ~~adult basic education center~~] that has funds remaining for
16 the purchase of instructional material at the end of the
17 fiscal year shall retain those funds for expenditure in
18 subsequent years.

19 D. All money collected by a private school for
20 the sale, loss, damage or destruction of instructional
21 material received pursuant to the Instructional Material Law
22 shall be sent to the department [~~of education~~].

23 E. Upon order of the chief, a school district,
24 state institution or private school [~~or adult basic education~~
25 ~~center~~] shall transfer to the department [~~of education~~] or

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1 its designee instructional material, purchased with
2 instructional material funds, that is in usable condition and
3 for which there is no use expected by the respective
4 schools."

5 Section 9. Section 22-15-11 NMSA 1978 (being Laws 1967,
6 Chapter 16, Section 215, as amended) is amended to read:

7 "22-15-11. RECORD OF INSTRUCTIONAL MATERIAL.--Each
8 school district, state institution or private school [~~or~~
9 ~~adult basic education center~~] shall keep accurate records of
10 all instructional material, including cost records, on forms
11 and by procedures prescribed by the [~~division~~] bureau."

12 Section 10. Section 22-15-12 NMSA 1978 (being Laws
13 1967, Chapter 16, Section 216, as amended) is amended to
14 read:

15 "22-15-12. ANNUAL REPORT.--Annually, at a time
16 specified by the department, each local school board of a
17 school district and each governing authority of a state
18 institution or private school [~~or adult basic education~~
19 ~~center~~] acquiring instructional material pursuant to the
20 Instructional Material Law shall file a report with the
21 department that includes an itemized list of instructional
22 material purchased by the eligible entity, by vendor; the
23 total cost of the instructional material; the average
24 per-student cost; and the year-end cash balance."

25 Section 11. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2010.

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